



~~December 19, 2000 CPC~~
~~March 20, 2001 CPC~~
~~June 19, 2001 CPC~~
~~July 25, 2001 BS~~
~~January 23, 2002 BS~~
~~July 24, 2002 BS~~
~~January 22, 2003 BS~~
~~July 23, 2003 BS~~

STAFF'S
REQUEST ANALYSIS
AND
RECOMMENDATION

01SN0149

Miller Oil Company, Inc.

Bermuda Magisterial District
Northwest quadrant of West Hundred and Rock Hill Roads

REQUEST: Amendment to Conditional Use Planned Development (Case 97SN0150) relative to hours of operation for a convenience/combination store. Specifically, 24-hour operation is proposed.

PROPOSED LAND USE:

A convenience/combination store, that would be open to the public 24 hours a day, is planned.

PLANNING COMMISSION RECOMMENDATION

RECOMMEND DENIAL.

AYES: MESSRS. CUNNINGHAM, GECKER AND GULLEY.

ABSTENTIONS: MESSRS. MARSH AND LITTON.

STAFF RECOMMENDATION

The condition of zoning related to limited hours of operation for a convenience/combination store was negotiated with area residents at the time of the original zoning. After consideration of public input, should the Commission and Board wish to approve this request, deletion of Condition 2 of Case 97SN0150 would be appropriate.

(NOTE: CONDITIONS MAY BE IMPOSED OR THE PROPERTY OWNER MAY PROFFER CONDITIONS.)

GENERAL INFORMATION

Location:

Located in the northwest quadrant of the intersection of West Hundred and Rock Hill Roads.
Tax ID 797-655-3409 (Sheet 26).

Existing Zoning:

C-2 with Conditional Use Planned Development

Size:

2.1 acres

Existing Land Use:

Vacant

Adjacent Zoning and Land Use:

North - C-2 with Conditional Use Planned Development; Public/semi-public use (U.S. Post Office)
South - A; Public/semi-public (cemetery)
East - C-3; Commercial
West - C-2 with Conditional Use Planned Development; Public/semi-public (County Police Precinct)

UTILITIES AND ENVIRONMENTAL

The amendment will have no impact on these facilities.

PUBLIC FACILITIES

Fire Service:

This amendment will have no impact on these facilities.

Transportation:

In July 1997, the Board of Supervisors approved the rezoning (Case 97SN0150) of a 9.9 acre parcel, located in the north-west corner of the Rock Hill Road/West Hundred Road (Route

10) intersection, to Neighborhood Business (C-2) with Conditional Use Planned Development to permit specific land use exceptions. As part of that zoning approval, the Board accepted a proffered condition (Proffered Condition 20) that established a maximum density for development on the 9.9 acre parcel. The subject property is part of that 9.9 acre parcel.

Subsequent to the rezoning, a post office and police station have been constructed on the parcel. Based on the maximum density condition, 3,000 square feet of convenience market with gas pumps can be developed on the remaining part of the 9.9 acre parcel which includes the subject property. Staff will review site plan(s) to ensure development is limited to this density or development with equivalent traffic generation.

LAND USE

Comprehensive Plan:

The request property lies within the boundaries of the Chester Village Plan which suggests the property is appropriate for neighborhood commercial use.

Area Development Trends:

The request property lies along a portion of West Hundred Road characterized by commercial zoning and land uses in the vicinity of the West Hundred Road/Jefferson Davis Highway intersection to the east. Public/semi-public uses exist to the north, northeast, south and west. Specifically, a new County Police Precinct facility lies to the west and the Chester Post Office lies to the north, both sites of which were subject to the original zoning case. A cemetery is located to the south. A convenience store with gasoline sales is located on adjacent property to the east, in the northeast quadrant of West Hundred and Rock Hill Roads.

Zoning History:

On July 23, 1997, the Board of Supervisors approved rezoning with Conditional Use Planned Development (Case 97SN0150) on the subject property and adjacent property to the north. With approval of Case 97SN0150, conditions were imposed and proffered conditions were accepted to address land use compatibility, access, architectural treatment, utilities, timbering, transportation improvements, lighting, buffers, traffic density and hours of operation.

At the Board of Supervisors' public hearing, upon request by the Bermuda District Supervisor, the Board imposed a condition limiting the hours of operation for any convenience/combination store prohibiting such use from being open to the public between the hours of 12:00 midnight and 6:00 a.m. (Condition 2, Case 97SN0150). Prior to imposition of that condition, the proffered conditions would have prohibited any use, other than a convenience/combination store, from being open to the public between 12:00

midnight and 6:00 a.m. Upon imposition of Condition 2 at the Board's public hearing, the convenience/combination store hours were similarly restricted.

Current Proposal:

Elimination of the hours of operation restriction for any convenience/combination store has been requested. Specifically, the applicant is proposing to develop a convenience/combination store open to the public 24 hours a day.

CONCLUSIONS

At the time of the original zoning, numerous conditions, including the condition relating to hours of operation, were negotiated. After consideration of public input, should the Commission and Board wish to approve this request, deletion of Condition 2 of Case 97SN0150 would be appropriate.

CASE HISTORY

Planning Commission Meeting (12/19/00):

At the request of the applicant, the Commission deferred this case to March 20, 2001.

Staff (12/20/00):

The applicant was advised in writing that any significant, new or revised information should be submitted no later than January 16, 2001, for consideration at the Commission's March 20, 2001, public hearing. Also, the applicant was advised that a \$150.00 deferral fee must be paid prior to the Commission's public hearing.

Applicant (1/4/01):

The deferral fee was paid.

Staff (2/21/01):

To date, no additional information has been received.

Planning Commission Meeting (3/20/01):

At the request of the applicant, the Commission deferred this case to June 19, 2001.

Staff (3/21/01):

The applicant was advised in writing that any significant new or revised information should be submitted no later than April 16, 2001, for consideration at the Commission's June 19, 2001, public hearing. Also, the applicant was advised that a \$150.00 deferral fee must be paid prior to the Commission's public hearing.

Staff (5/23/01):

The deferral fee was paid.

Planning Commission Meeting (6/19/01):

The applicant did not accept the recommendation. There was support and opposition present. Those in support indicated that other uses in the area have 24 hour operation with no apparent adverse impact on the area; that the use would not generate "new" traffic on area roads, but rather those already traveling area roads would patronize the business; and that perhaps a compromise would be appropriate to delete the hours restriction in return for additional restrictions relative to architecture, landscaping, etc.

Those in opposition expressed concerns that a 24 hour operation would increase traffic in the area; would not comply with the recommendations of the Chester Village Plan which suggests that gasoline sales should only be permitted in Neighborhood Commercial areas under special circumstances; and that while the post and police offices are open 24 hours per day, they do not generate the same amount of late night traffic that a convenience store would.

Mr. Cunningham indicated that the original restriction on hours for convenience store use had been negotiated with the applicant, Board and area neighborhoods. He stated that he saw no change in circumstances in the area that would suggest that the limitations should be reviewed.

Mr. Gecker indicated that it is important for the County to honor and protect the expectations of those who had participated in the original case and he, too, saw no change in circumstances since the original case.

Mr. Marsh suggested that perhaps there could have been more negotiation between the applicant and area residents to arrive at a compromise acceptable to all parties. He noted that another convenience store which operates 24 hours a day is located on adjacent property.

On motion of Mr. Cunningham, seconded by Mr. Gecker, the Commission recommended denial of this request.

AYES: Messrs. Cunningham, Gecker and Gulley.

ABSTENTIONS: Messrs. Marsh and Litton.

Board of Supervisors' Meeting (7/25/01):

At the request of the applicant, the Board deferred this case to January 23, 2002.

Staff (7/26/01):

The applicant was advised in writing that any significant new or revised information should be submitted no later than December 17, 2001, for consideration at the Board's January 23, 2002, public hearing. Also, the applicant was advised that a \$150.00 deferral fee must be paid prior to the Board's public hearing.

Staff (1/7/02):

The applicant requested a deferral to July 24, 2002. The deferral fee was paid.

Board of Supervisors Meeting (1/23/02):

At the request of the applicant, the Board deferred this case to July 24, 2002.

Staff (1/24/02):

The applicant was advised in writing that any significant new or revised information should be submitted no later than April 15, 2002, for consideration at the Board's July 24, 2002, public hearing. Also, the applicant was advised that a \$150.00 deferral fee must be paid prior to the Board's public hearing.

Staff (4/3/02):

The deferral fee was paid.

Staff (6/28/02):

The applicant requested a deferral to January 23, 2003.

Staff (7/25/02):

The applicant was advised in writing that any significant new or revised information should be submitted no later than October 14, 2002, for consideration at the Board's January 2003 public hearing. The applicant was also advised that a \$140.00 deferral fee was due.

Applicant (12/19/02 and 12/20/02):

The applicant has requested a deferral to July 23, 2003. The deferral fee was paid.

Board of Supervisors Meeting (1/22/03):

At the request of the applicant, the Board deferred this case to July 23, 2003.

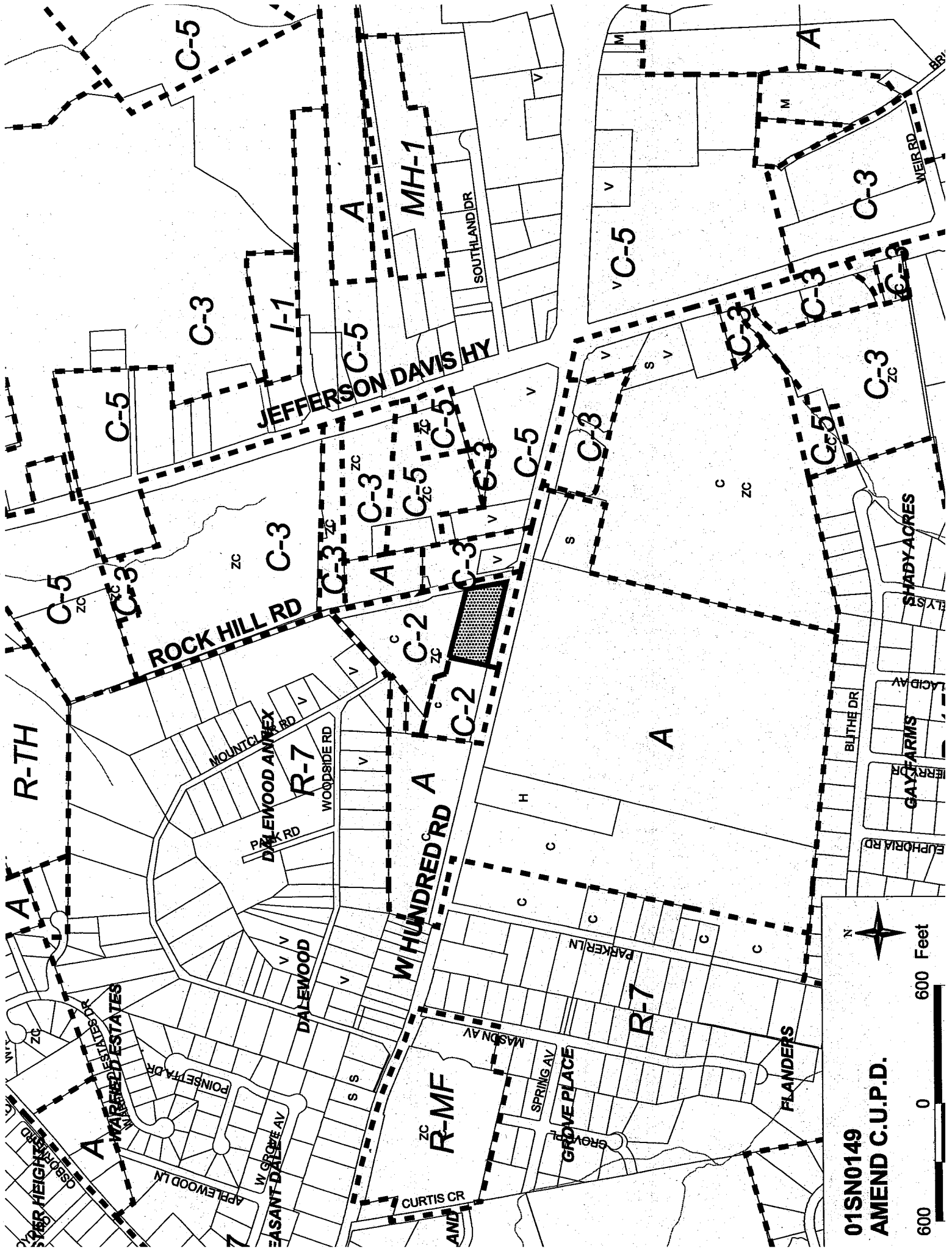
Staff (1/23/03):

The applicant was advised in writing that any significant new or revised information should be submitted no later than April 14, 2003, for consideration at the Board's July 23, 2003, public hearing. Also, the applicant was advised that a \$140.00 deferral fee must be paid prior to the Board's public hearing.

Staff (4/21/03):

The deferral fee was paid.

The Board of Supervisors, on Wednesday, July 23, 2003, beginning at 7:00 p.m., will take under consideration this request.



01SN0149
AMEND C.U.P.D.